

APPLICANTS:
Mark & Carol Huna

REQUEST: A variance to construct
an attached garage within the required
side yard setback

HEARING DATE: June 23, 2004

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5426

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Mark & Carol Huna

LOCATION: 641 Priestford Road/Lands of James E. Capley, Churchville
Tax Map: 35 / Grid: 3D / Parcel: 53 / Lot: 6
Third Election District

ZONING: AG / Agriculture

REQUEST: A variance pursuant to Section 267-34C, Table II, of the Harford County Code, to allow an attached garage within the required 20 foot side yard setback (12 foot setback proposed), in an Agricultural District

TESTIMONY AND EVIDENCE OF RECORD:

First testified Mark J. Huna, Applicant and owner of 641 Priestford Road. Mr. Huna explained his variance request as being motivated by a desire to add a two car garage to his dwelling. The subject property, zoned agricultural, is unique because it is located directly adjacent to a right-of-way used by three other property owners and the property slopes down away from the rear of the house in such a way so as to require substantial grading if a garage were to be built anywhere other than as proposed.

Mr. Huna further testified, and demonstrated by way of photographs and a site plan marked as Attachment 3 to the Harford County Department of Planning and Zoning Staff Report, that the driveway onto the subject property actually comes into the back of the house, which further reduces the available area for the garage. Further constraining the potential location of the garage is the existing well, located in the back yard of the house, and the existing septic reserve area located in the front yard of the house.

Mr. Huna testified these physical characteristics as a result limit the potential location of the garage to the side of the house adjacent to the existing right-of-way. In order to construct a garage similar in size and shape to others in the neighborhood, Mr. Huna must impact the required 20 foot side yard variance by 8 feet. This variance is accordingly requested.

Case No. 5426 – Mark & Carol Huna

Mr. Huna indicated that the garage door will be to the rear of the house as one viewed it from Priestford Road. The construction of the proposed garage would match the existing home, as would the style of the proposed garage.

Mr. Huna solicited and enclosed with his application a series of letters from neighbors, all of whom expressed their lack of opposition to the request. Mr. Huna further testified that no neighbor has expressed any opposition to his request. The three homeowners who use the adjacent right-of-way do not have any objection to the proposed variance.

Next testified Anthony McClune of the Harford County Department of Planning and Zoning. Mr. McClune reiterated the findings of the Department's Staff Report in indicating that the only practical location on the subject property for a garage is as proposed. Constructing the garage in any other allowable location would involve a significant amount of excavation and fill, and would be significantly constrained by the existing wall and septic reserve areas.

Furthermore, Mr. McClune indicated that the lot line to which the garage would be adjacent is itself immediately adjacent to a 50 foot wide right-of-way which is used by other residents to the rear of the subject property. The garage, if built as proposed, would be at least 40 feet from the paved portion of that right-of-way, and 80 feet from any other neighbor.

Mr. McClune indicated that the proposed variance, if granted, would have no adverse impact on the neighbors or neighborhood.

No opponent appeared or presented testimony in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

Case No. 5426 – Mark & Carol Huna

(2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The configuration of the Applicants' lot is unusual. While their single family home fronts onto Priestford Road, it is adjacent to a 50 foot wide right-of-way used by the Applicants and other property owners to the rear of the Applicants' property. The Applicants driveway comes off this 50 foot right-of-way and into the rear of the Applicants' property. There is no driveway in the front of the house. However, the front is impacted by the Applicants' septic reserve area, and the rear is impacted by the Applicants' well, which is located virtually in the middle of the Applicants' rear yard. The problems with the location of the well and septic reserve are exacerbated by the slope of the rear yard, which also creates difficulties in the construction of the garage thereon.

There was also further testimony that the type of garage to be constructed by the Applicants would be similar to others in the neighborhood.

It is accordingly found that the Applicants suffer a practical difficulty as a result of unusual features of their property. Those unusual features include a septic reserve area in the front of the house, a well in the middle of the rear yard, and a sloping rear yard. These features create an unusual hardship to the Applicants in that they are unable to construct a garage similar to others in the neighborhood without the requested variance.

Case No. 5426 – Mark & Carol Huna

It is further found that the relief requested, being an impact of 8 feet into the 20 foot side yard setback, is the minimum relief necessary in order to grant the Applicant the right which they seek.

It is found that the variance, if granted, would cause no adverse impact to any adjoining property or neighbor.

CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the following conditions:

1. The Applicants obtaining all necessary permits and inspections for the garage.
2. The Applicants construct the garage so as to match the appearance, in style and color of materials, of the existing house.
3. The garage be constructed with its garage door to the rear of the house.

Date: July 23, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner